

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP/(954) 797-1101

**SUBJECT:** Quasi Judicial Hearing: Rezoning  
ZB 7-1-01, Aguirre/Stone Harbor Inc., 3201 West State Road  
84/Generally located on the north side of State Road 84 one-half mile  
east of State Road 441.

**TITLE OF AGENDA ITEM:** ZB 7-1-01, Aguirre/Stone Harbor Inc., 3201 West State Road 84  
(M-1, Hacienda Village to M-2)

## **REPORT IN BRIEF:**

The applicant is requesting this rezoning to allow the property owner to further utilize the subject site and expand the existing boat building and repair business. More than half the site (7.47 acres) contains an existing boat building and repair business. The M-1, Light Industrial District (Hacienda Village) does not permit boat building and repairs, and the M-2, Medium Industrial District does permit such use. The permitted uses and conventional nonresidential development standards for the M-2, Medium Industrial District were specifically amended in order to accommodate this use by ZB(TXT)3-3-00. In addition, the applicant has offered voluntary deed restrictions that prohibit uses that are undesirable at this location. The request is not in conflict with Comprehensive Plan or any element thereof. The subject site meets the Land Development Code's conventional nonresidential development criteria for the M-2, Medium Industrial District. The current zoning is a defunct district of Hacienda Village which was annexed into the Town in 1984, and it is policy to rezone property so that it can be regulated by the current standards of the Town of Davie Land Development Code.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** The Planning and Zoning Board recommended approval of the request at its August 22, 2001 meeting (Motion carried 5-0).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** Justification letter, Declaration of Restrictions, Ordinance 2000-15, Land use map, Subject site map, Aerial

**Application #: ZB 7-1-01**  
**Exhibit "A"**

**Revisions:**  
**Original Report Date: 8/23/01**

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**TOWN OF DAVIE**  
**Development Services Department**  
**Planning & Zoning Division Staff**  
**Report and Recommendation**

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**APPLICANT INFORMATION**

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**Owner:**

**Name:** Stone Harbor, Inc.  
**Address:** 3201 West State Road 84  
**City:** Fort Lauderdale, FL 33312  
**Phone:** (954)581-9200

**Agent:**

**Name:** Frank Aquirre  
**Address:** 7320 Griffin Road, Suite 103  
**City:** Davie, FL 33314  
**Phone:** (954)791-2110

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**BACKGROUND INFORMATION**

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**Date of Notification:** August 15, 2001    **Number of Notifications:** 57

**Application History:** No deferrals have been requested.

**Application Request:** Rezone the 12.81 acre subject site **FROM:** M-1, Light Industrial District (Hacienda Village); **TO:** M-2, Medium Industrial District.

**Address/Location:** 3201 West State Road 84/Generally located on the north side of State Road 84 one-half mile east of State Road 441.

**Future Land Use Plan Designation:** Industrial

**Zoning:** M-1, Light Industrial District (Hacienda Village)

**Existing Use:** Boat Building and Repairs and Dense Vegetation

**Proposed Use:** Boat Building and Repairs

**Parcel Size:** 12.81 acres (558,003.6 square feet)

	<b><u>Surrounding Uses:</u></b>	<b><u>Surrounding Land Use Plan Designation:</u></b>
<b>North:</b>	New River Canal, Single Family Residential in Unincorporated Broward County	Residential (5 DU/AC)
<b>South:</b>	State Road 84, I-595	Transportation
<b>East:</b>	Boat Building and Repairs	Industrial
<b>West:</b>	Dense Vegetation	Conservation

**Surrounding Zoning:**

**North:** RS-5, One Family Dwelling District (Broward County)  
**South:** M-1, Light Industrial District (Hacienda Village)  
**East:** C-1, Commercial (Broward County)  
**West:** RM-5, Low Medium Density Dwelling District (Hacienda Village)

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## ZONING HISTORY

**Related Zoning History:** In 1984, Section 1, Chapter 84-420, Laws of Florida (Senate Bill 1139) was approved by the Florida Legislature which revised the legal description of the Town's boundaries to include Hacienda Village.

Town Council approved ZB(TXT) 3-3-00 on May 17, 2000, which amended the Land Development Code to adequately accommodate boat building and repairs (Ordinance 2000-15).

**Previous Request on same property:** None

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## APPLICATION DETAILS

The applicant is requesting to rezone the 12.81 acre subject site from M-1, Light Industrial District (Hacienda Village) to M-2, Medium Industrial District, in order to permit boat building and repairs. More than half the site (7.47 acres) contains an existing boat building and repair business. The M-1, Light Industrial District (Hacienda Village) does not permit boat building and repairs, and the M-2, Medium Industrial District does permit such use. The permitted uses and conventional nonresidential development standards for the M-2, Medium Industrial District were specifically amended in order to accommodate this use by ZB(TXT)3-3-00. In addition, the applicant has offered voluntary deed restrictions that prohibit auction houses, processing facilities or storage of cement, concrete, lime, and petroleum refining.

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## Applicable Codes and Ordinances

1. Section 12-307 of the Land Development Code, review for rezonings.
2. Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, M-2, Medium Industrial Districts, requires minimum lot area of 35,500 square feet, minimum lot frontage of 100 feet, minimum setbacks of 25 feet from all street lines, 50 feet from property lines adjacent to areas zoned, occupied or Land Use Plan designated residential, 10 feet from property lines adjacent to areas zoned, occupied or Land Use Plan designated for nonresidential uses, 125 feet from all property lines for the manufacture, storage or processing concrete, cement and lime, and for heavy manufacturing, fabrication and industrial uses, excluding yacht manufacturing and repair; maximum building height of 35 feet, the maximum height of all yacht manufacturing and repair, and marina uses shall not exceed 40 feet in height.
3. Section 12-32(C) of the Land Development Code, Table of permitted uses for Business Park and Industrial General Use.

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## Comprehensive Plan Considerations

**Planning Area:** The subject property falls within Planning Area 7. This Planning Area, the smallest of the planning districts, encompasses what was once Hacienda Village. Bordered on the north by the North New River Canal and on the south by state Road 84, the area stretches approximately one mile east of SR 7, and includes the Hacienda Flores and Pond Apple Slough wetland mitigation sites.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 58.

**Applicable Goals, Objectives & Policies:** Policy 9-1: The Industrial category shall provide for the development of diversified facilities necessary to promote strong economic and employment bases for the Town.

Policy 9-2: The Town shall endeavor to expand its economic base through expansion of the industrial and manufacturing sectors of its economy.

Policy 9-4: Industrial land uses shall be located with access to primary transportation facilities, particularly interstates, highways, rail corridors, commercial airports, and navigable waterways. Consistent with Policy 9-2, vacant land with such access shall be examined for potential industrial development.

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### **Staff Analysis**

The purpose of this rezoning request is to allow the property owner to further utilize the subject site and expand the existing boat building and repair business. The request is not in conflict with Comprehensive Plan or any element thereof. The subject site meets the Land Development Code's conventional nonresidential development criteria for the M-2, Medium Industrial District. The current zoning is a defunct district of Hacienda Village which was annexed into the Town in 1984, and it is policy to rezone property so that it can be regulated by the current standards of the Town of Davie Land Development Code. It is noted that the Declaration of Restrictions will prohibit uses that are undesirable at this location. The request will not create automobile traffic in excess of that which was anticipated by the underlying Industrial land use classification. The proposed rezoning does not create an isolated zoning district and is consistent with the adjacent existing and planned uses. The proposed use can be considered to be in harmony with the general intent and purpose of the code, and will not be detrimental to the public welfare.

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### **Findings of Fact**

#### **Rezoning:**

#### **Section 12-307(A)(1):**

**The following findings of facts apply to the rezoning request.**

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;
- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;
- (c) Existing zoning district boundaries are not logically drawn in relation to existing conditions on the property proposed for change;
- (d) The proposed change will not adversely affect living conditions in the neighborhood;
- (e) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;
- (f) The proposed change will not adversely affect other property values;

(g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;

(h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

(i) There are not substantial reasons why the property cannot be used in accord with existing zoning.

(j) The proposed zoning designation may be the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

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### **Staff Recommendation**

**Recommendation:** Based upon the above and the finding of facts in the positive, staff recommends **approval**, of petition ZB 7-1-01.

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### **Planning & Zoning Board Recommendation**

The Planning and Zoning Board recommended approval of the request at its August 22, 2001 meeting (Motion carried 5-0).

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### **Exhibits**

1. Justification letter
2. Declaration of Restrictions
3. Ordinance 2000-15
4. Land use map
5. Subject site map
6. Aerial

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

#### REASON FOR REQUEST (ADDITIONAL INFORMATION)

The proposed change is compatible with the adopted comprehensive plan, as amended.

The proposed change will not create an isolated zoning district; adjacent lands to the East have compatible land use and zoning.

The existing zoning district boundaries are logically drawn in relation to existing conditions and land use.

The proposed change will not adversely affect living conditions in the neighborhood because there is a wide canal separating this area from the residential neighborhood on the North, the property to the West is a parcel of natural conservation. The land to the East has the same M-2 zoning.

The proposed change will not create or excessively increase vehicular traffic or congestion; all traffic will be handled by State Road No. 84 and I-595.

The proposed change will not adversely affect other property values.

The proposed change will not constitute a grant of special privilege to the owners of this property. The present zoning of the area is compatible with the requested change.

The property cannot be used in accordance with the present zoning. Town of Davie has encouraged the owners of this property to re-zone in order to get the building permits requested.

## DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned Stone Harbor, Inc., being the owner(s) of that certain real property located in the Town of Davie, Broward County, Florida, and described on Exhibit "A" attached hereto and made a part hereof, voluntarily makes the following Declaration of Restrictions covering the above-described property, specifying that this Declaration of Restrictions shall constitute a covenant running with the land and that this declaration shall constitute a covenant running with the land and that this declaration shall be binding upon the undersigned and upon all persons deriving or taking title through the undersigned. These restrictions, during their lifetime, shall be for the benefit for the Town of Davie, Florida.

1. The following Business Park and Industrial General Uses shall not be conducted on the above described property: Auction House, Processing Facilities or storage of Cement, Concrete, Lime, and Petroleum Refining.
2. These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the approval of the undersigned or their successors in title or assigns. Any amendment to this Declaration of Restrictions or termination hereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.
3. Invalidation of any one portion of this Declaration of Restrictions or any portion of this document by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
4. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the citizens of the Town of Davie, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2001 .

Signed, sealed and delivered

\_\_\_\_\_  
BY: \_\_\_\_\_

Witness

PRINT: \_\_\_\_\_

\_\_\_\_\_

Witness

PRINT:\_\_\_\_\_

\_\_\_\_\_

STATE OF FLORIDA

|

SS:

COUNTY OF BROWARD

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The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ ,

2001, by \_\_\_\_\_ who is personally known to me or produced

\_\_\_\_\_ as identification.

Notary Public:

Sign:

\_\_\_\_\_

Print

Name:

\_\_\_\_\_

My Commission Expires:

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING CODE AMENDMENT APPLICATION ZB(TXT)03-03-00, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, SECTION 12-32, ENTITLED "TABLE OF PERMITTED USES," TO PROVIDE FOR THE USE OF YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-33, ENTITLED "GENERAL REGULATIONS," (W) "OUTDOOR ACTIVITIES RESTRICTED," TO ALLOW FOR OUTDOOR SALE AND STORAGE FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-34, ENTITLED "DETAILED USE REGULATIONS," BY CREATING SUBSECTION (EE) "YACHT MANUFACTURING AND REPAIR," TO ESTABLISH REGULATIONS FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-83, ENTITLED "COMMERCIAL CONSERVATION STANDARDS," TABLE 12-83 "CONVENTIONAL NONRESIDENTIAL STANDARDS," TO PROVIDE STANDARDS FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-208, ENTITLED "REQUIREMENTS FOR OFF-STREET PARKING," TO ESTABLISH PARKING REQUIREMENTS FOR YACHT MANUFACTURING AND REPAIR; AMENDING SECTION 12-503, ENTITLED "DEFINITIONS," TO PROVIDE DEFINITIONS FOR YACHT AND MARINA; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to amend the Land Development Code to provide for land development regulations for yacht manufacturing and repair, and marinas; and

WHEREAS, the Town Council of the Town of Davie held two (2) advertised public hearings, in accordance with State law, to solicit input from the public on ZB(TXT) 03-03-00.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That Section 12-32, Table of Permitted Uses, of the Town Code is amended to read as follows:

(A) <i>Business Park and Industrial</i>	Districts			
General Use	BP	M-1	M-2	M-3
Marina, <del>Dry Storage</del>	N	N	*	*
<u>Yacht Manufacturing and Repair</u>	<u>N</u>	<u>N</u>	<u>*</u>	<u>N</u>

SECTION 2. That Section 12-33, General Regulations, of the Town Code is amended to read as follows:

(W) *Outdoor Activities Restricted.*

(1) All activities of permitted uses, including but not limited to sale, display, preparation and storage, shall be conducted within a completely enclosed building, except as follows:

a., b., c., d.,

e. Boats for sale and storage associated with yacht manufacturing and repair and marinas are permitted.

SECTION 3. That Section 12-34, Detailed Use Regulations, of the Town Code is amended to read as follows:

(EE) Yacht manufacturing and repair: shall include the construction, customizing, outfitting, repair and storage of large boats not to exceed 180' in length. In addition, accessory uses that are directly associated with the manufacturing of yachts are permitted. Examples include: offices, engine sales, yacht brokerage, cleaning and detailing, etc. (1) Height. The maximum height of all yacht manufacturing and repair structures shall not exceed 55'. All other structures for related uses shall not exceed 40' in height.

(2) Open Space and Natural Resource Protection.

(a) Based on the use always being adjacent to the water, open water may be used to satisfy the open space requirements.

(b) Article IV. District Performance Standards and Capacity Analysis requirements do not apply to this use, based on the jurisdictional requirements of the Department of Planning and Environmental Protection (DPEP) and the Army Corps of Engineers regulating development along the North New River Canal. All manufacturing and repair work shall follow the "Best Management Practices for Marine Facilities" published by Broward County.

(3) Hours of Operation. Yacht manufacturing and repair shall be conducted after 6:00 AM and before 8:00 PM, Monday through Sunday.

SECTION 4. That Section 12-83, Conventional Nonresidential Development Standards, of the Town Code is amended to read as follows:

District	Area	Frontage	Depth	Front	Side	Rear	Height	Coverage	Separation	O.S.
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M-2	35,000	100	-	f	f	f	35' ***	40%	-	20%
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f	Twenty-five (25) feet from all street lines; fifty (50) feet from property lines									
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adjacent to areas zoned, occupied or Land Use Plan designated residential; ten (10) feet from property lines adjacent to areas zoned, occupied or Land Use Plan designated for nonresidential uses; one hundred twenty-five (125) feet from all property lines for the manufacture, storage or processing of concrete, cement and lime, and for heavy manufacturing, fabrication and industrial uses, excluding yacht manufacturing and repair.

\*\*\* The maximum height of all yacht manufacturing and repair, and marina structures shall not exceed 55'. All other structures for related yacht manufacturing and repair, and marina uses shall not exceed 40' in height.

SECTION 5. That Section 12-208, Requirements for off-street parking, of the Town Code is amended to read as follows:

(39) Yacht Manufacturing and Repair, and Marinas. One (1) space for 1,300 square feet of solid roofed area.

SECTION 6. That Section 12-503, Definitions, of the Town Code is amended to read as follows:

Marina. A water-oriented commercial facility with boat dockage, supplies, dry storage and related sales and services for recreational and/or commercial watercraft. ~~A small harbor with boat dockage~~

Yacht. A recreational watercraft up to 180 feet in length, usually motor driven and used for pleasure cruising.

SECTION 7. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 8. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 9. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2000

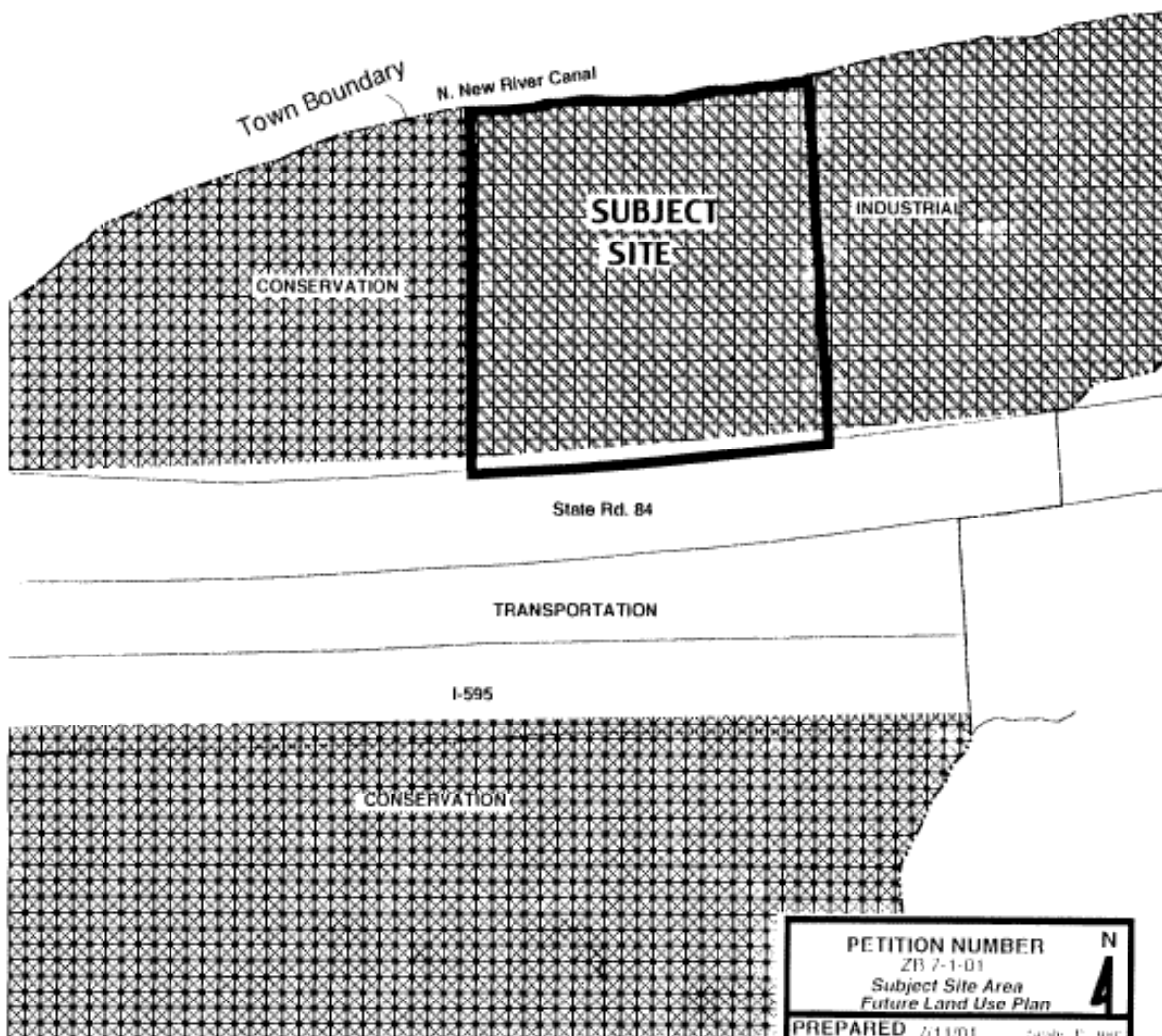
PASSED ON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2000

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000



PETITION NUMBER ZB 7-1-01 Subject Site Area Future Land Use Plan	N 4
PREPARED 7/11/01 BY THE PLANNING & ZONING DIVISION	Scale: 1"=100'

